

MEMORANDUM

To: The Planning Commission

From: Heather Beckmann, Sr. Planner
Andrew O. Trivette, Sr. Biologist

Date: July 1, 2006

Re: An Amendment to a Major Conditional use for the development of a gated marina with 32 attached units, two (2) new boat barns and eight (8) wet slips.

I MEETING DATE: July 13, 2006

II. REQUEST:

A. Proposed use & size:

The Craig Company is requesting an Amendment to a Major Conditional Use for the development of 32 attached units, two (2) new boat barns eight (8) wet slips in a gated marina on a portion of a site with an approved conditional use to function as a marina.

B. Location:

1. Stock Island, mile marker 5
2. 5970 Peninsular Avenue
3. Legal Description: Lots 1,2, 3 & Adj Bay Bottom, Square 60; Part lots 1,2,3 & Adj Bay Bottom, Square 61 Part Maloney Ave vacated & filled bay bottom adjacent to Maloney Ave, & Part Adj Parcel; Unit J-4, J-6, J-9, J-11, J-12, & 5/52% Common Elements Oceanside East Dry Storage Condominium, Stock Island, Monroe County, Florida.
4. Real Estate Numbers: 00127420-000601 through 00127420-000675, 00127440-000100 through 00127440-002500, 00127420-000000, 00127420-000100 and 00127430-000101 through 00127430-000211.

C. Applicant: King's Pointe Marina LLC

1. Owner: King's Pointe Marina LLC and various condominium owners (too numerous to list).
2. Agent: The Craig Company

III PROCESS:

An Amendment to a Major Conditional Use

IV PRIOR COUNTY ACTIONS:

Resolution No. P52-97 was signed on August 18th, 1999 for the construction of 22 attached dwelling units; one (1) swimming pool; a 372 sq. ft. pool house; a 120 sq. ft. observation gazebo; a 22,000 sq. ft. boat storage building; a 435 sq. ft. addition to an existing 225 sq. ft. dock master's office; a 1,670 sq. ft. addition to an existing tackle shop and a 2,485 sq. ft. addition to an existing restaurant. The project was under one (1) RE # 00127420.000000.

Existing development on the site prior to the conditional use approval included a marina with 88 wet slips, a retail, storage and boat storage building, a tackle shop, a bath and laundry facility, the dockmasters office, a gatehouse and the restaurant.

On June 30, 2000 K. Marlene Conaway, Director of Planning approved a minor deviation of the site to relocate the restaurant and a portion of the residential units.

V BACKGROUND INFORMATION:

A. Size of Site: 10.17 acres

*The applicant states that the site is 11.18 acres, however staff has not reviewed the documentation that supports that claim and is basing this number on a previous conditional use approval and property appraiser data.

B. Land Use District: Mixed Use

C. Future Land Use Designation: Mixed Use commercial (MC)

D. Tier Designation: Tier III

E. Existing Vegetation/Habitat: Maintained landscape area

F. Community Character of Immediate Vicinity:

The community character of the immediate vicinity is a mixture of residential, commercial, and light industrial (warehouses). A restaurant is located to the northwest and 16 new affordable housing townhomes are situated to the North. To the northeast is a warehouse area. The remainder of the site is surrounded by the open waters.

G. Miscellaneous:

The current application has excluded portions of the original conditional use including the portions of the parcel that contains the 22 condominiums, the 120' X 182' boat barn, 87 wet slips, and 71 parking spaces contained within a parking Lot. This has not been accomplished through the subdivision and/or aggregation of the land. Therefore, Staff is processing this as approved in the original conditional use with the addition of RE # 00127420.000000.

VI REVIEW OF APPLICATION

Major issues of concern with the application:

1. Marine facilities and working waterfront, interim development ordinance

1 The Board of County Commissioners directed Staff to prepare an interim
2 development ordinance to prevent redevelopment and conversion of
3 marine facilities that result in the loss of working waterfront and diminish
4 public access in order to implement a policy of “No-Net-Loss” of working
5 waterfront and public access to marine facilities. This ordinance went into
6 effect on March 1, 2005 and stated that an application for development
7 approval that meets the criteria of Section 2 shall not be granted to an
8 application submitted after March 1, 2005.

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10 The pertinent portions of Section 2 that relate to this project are:

- 11
12 • *Redevelopment and conversion of existing uses including any*
13 *change of use from a water dependent use to a water enhanced or*
14 *a non-water dependent use of a commercial marina.*

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16 The site is currently developed with a boat lift and a public boat ramp that
17 charges \$15 to take a boat in and out of the water. According to the site
18 plan access to the site will become gated, the public boat ramp will be
19 removed and the public restaurant will become private. The removal of the
20 public boat ramp and the gating of the site are not permitted under the
21 IDO. Therefore, the gate shall be removed and the public ramp shall
22 remain.

23
24 The applicant has stated that the facility is private due to the existing
25 guard shack located at the entrance and that public access will continue
26 despite the proposed addition of the gate and the removal of the boat ramp.
27 However, Staff finds that the nature of the site is public due to the public
28 restaurant and the public boat ramp. Staff suggests the gate be relocated to
29 the western entrance of the site where the new residential units are being
30 proposed.

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32 2. Standards applicable to all conditional uses, Section 9.5-66

33 Access to the water is very limited on Stock Island and has been a
34 reoccurring concern expressed by residents during the Livable
35 CommuniKeys process. Staff finds that the proposed gating of the
36 development and the removal of the public boat ramp, one of the few on
37 Stock Island, will adversely affect access to a waterfront area that has
38 historically been used as a public site.

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40 3. Density/Intensity of Use, Section 9.5-269

41 The site is at least at 116% density.

42
43 Density is calculated at maximum net because the applicant is in the
44 process of securing transferable development rights from Key West via an
45 interlocal agreement.
46

Size of Site (including the parcels not owned by the applicant):
10.17 acres – 20% Open Space = 8.14 acres X 12 = 97.6 units
54/97.6 = 55%

FAR	Proposed (sq ft)	Maximum @ 100%	Utilize
.25	4,984	110,751	4.5%
.30	75,660	132,901	57%
.40	2,592	177,202	1.5%
Total:			63 %

Commercial and Residential (not including liveboards) = 118%

Staff has found from various ads in the paper that the site has liveboards.
Pursuant to Section 9.5-324, liveboards count as one (1) dwelling unit
when calculating density.

- A) The conditional use is consistent with the purposes, goals objectives and standards of the plan and this chapter; and
- B) Consistent with the community character of the immediate vicinity; and
- C) Minimizes adverse effects on adjacent properties; and
- D) No adverse impact on the value of surrounding properties; and
- E) Adequate public facilities and services:

1. Roads:

i. Localized impacts and access management:

The site plan indicates that one (1) new access drive will be added along Peninsular Avenue. The access drive is located approximately 250 feet West of the existing entrance to the Marina. The new access drive will serve the sixteen (16) proposed units. The access drive and curb cuts require approval from the County Engineer.

ii. Major road Level of Service:

A Level Three Traffic Impact Report was prepared by Transport Analysis Professionals, Inc., (TAP) and reviewed by the County Traffic Engineer. The County Traffic Engineer concurred with the findings of the study. However, the Engineer made the following requests; to show the design maneuverability through the site and at the project driveway and to show clear site visibility details at the access driveways.

In a revised site plan dated

2. Stormwater:

A Stormwater Management Plan was provided with the application. Compliance with Section 9.5-293 can not be determined without approval from the County Engineer.

1 3. Sewer:

2 The applicant shall coordinate with the Florida Department of Health
3 (FDEH) and Key West Resort Utility (KWRU) to determine compliance
4 with Section 9.5-294.
5

6 4. Emergency Management:

7 A letter of coordination was sent from the Fire Marshal dated June 1,
8 2006. The requests of the Fire Marshal shall be met to determine
9 compliance with 9.5-69.
10

11 5. Others:

12 Pursuant to Chapter 380.06 FS, a "Binding Letter" from the Department of
13 Community Affairs (DCA) that would determine if the proposed project is
14 subject to a Development of Regional Impact (DRI) review shall be
15 required. At the June 13, 2006 DRC meeting, a representative from DCA
16 has requested a "Clearance Letter" from DCA. The applicant contends
17 such a letter is not necessary, however staff requests a letter of
18 coordination from DCA supporting that such claim.
19

20 F. Applicant is financially able to complete the project; and

21 G. Archaeological, historical, or cultural impact; and

22 H. Preservation of public access to public beaches or other waterfront
23 areas: **Not in compliance**, see above.

24 I. Complies with all additional standards.
25

26 1. Purpose of the Mixed Use District: **In compliance**

27
28 2. Permitted Uses: **Not in compliance**

29 The MU district permits attached residential uses of four
30 (4) units or less light industrial uses (boat barns) so long as
31 the parcel is separated from any established residential use
32 by at least a class C bufferyard as a minor conditional use,
33 marinas are permitted as a major conditional use and have
34 the same bufferyard requirements as light industrial uses.
35

36 The applicant has indicated that the attached residential
37 units will be used as vacation rental. However, Section 9.5-
38 248 permits *detached* residential to have a vacation rental
39 license, rather than attached. Therefore, the vacation rental
40 of the attached units is not a permitted use.
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42 3. Height: **In compliance**

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44 4. Flood Plain management criteria: **Compliance to be**
45 **determined** upon submittal to the building department.
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5. Outdoor lighting: **Compliance to be determined** upon submittal to the building department.
6. Energy and conservation standards: **Not in compliance.**
The applicant has not indicated how the energy and conservation standards will be met. Staff suggests that the standards would be met in the following ways: (1) installation of native plants that reduce the requirements for water and maintenance; (2) installation of bicycle racks; (3) open porches and ceiling fans to conserve energy; (4) the use of solar panels for hot water heating would be explored; and (5) heat pumps for air-conditioning will be used to the maximum extent practicable.
7. Shoreline Setback: **Compliance to be determined.**
The project includes development along several shorelines. The shoreline along the western property lines are considered by staff to be an altered shoreline adjacent to a basin which will require a setback of 20 feet from mean high water (MHW). The plan is in compliance with this shoreline setback requirement. The shorelines along the eastern project boundaries are considered to be altered shorelines through the placement of fill on open water not adjacent to a canal, channel or basin and having a mangrove fringe. This type of shoreline area will require a shoreline setback of 30 feet from mean high water (MHW) or the landward extent of the mangroves whichever is further inland. This does not include the shoreline running east and west along the southeastern project boundary which is altered and adjacent to a basin, requiring a shoreline setback of 20 feet from mean high water (MHW).

The applicant is requesting a special approval from the Commission to reduce such setback to 20 feet pursuant to Section 9.5-349(o) for the placement of five units in the setback. This approval is granted for structures serving a commercial or public use or three or more residential units. After further review, Staff finds that the residential units do not serve the use of the marina and may not qualify for this type of approval.
8. Scenic Corridor and Bufferyards: **Compliance to be determined.**
This project is not along a major street nor does it share a boundary with a land use district other than Mixed Use.

Thus no buffer yard requirements apply per this section of the code.

However, section 9.5-248 does allow attached residential as a major conditional use if a class “C” bufferyard is installed between the parcel being developed and any other established residential uses. An affordable housing project is in the final stages of completion across Peninsular Avenue from the Kings Pointe site. The applicant has indicated he will provide such a bufferyard, however a revised site plan displaying this required bufferyard has not been submitted and reviewed by staff.

9. **Minimum yards: Not in compliance.**

Attached residential have a front yard setback requirement of twenty- five feet (25) and a rear yard of twenty (20) feet.

The minimum yard set backs for uses other than attached and detached residential in the Mixed-Use land use district is fifteen (15) for the front, ten (10) in the rear and side yards such that one side shall be ten (10) feet so that the combined total of both yards is fifteen (15).

The front yard setback for the attached residential units is shown as twenty (20) feet and do not meet the twenty-five (25) foot requirement. The applicant is requesting a front yard setback waiver from the required 25 feet to 20 feet.

The southwestern sideyard has sidewalks in the setback.

10. **Landscaping: In compliance.**

11. **Open space: In compliance.**

12. **Parking and loading standards: Not in compliance**

The entire site has 263 spaces. With the shared parking requirement, the entire site requires 286 parking spaces. Of which, the ramp requires a minimum of one (1) 14 X 55 to accommodate trailers and oversized vehicles.

The applicant is requesting a 20% waiver because the club will be private and residential owners will own a boat slip.

13. **Handicap accessibility: Not in compliance.**

The site plan does not indicate that any of the spaces are handicap accessible. A minimum of 1 space per 25 is

required. Therefore, the site requires 11 handicap spaces. If the waiver is granted, the site will require only 10 spaces.

14. Affordable and employee housing: **Compliance to be determined.**

The applicant is required to supply nine (9) affordable housing units.

32 units proposed – 2 units = 30 units X .30 = 9 units
Compliance with this Section is dependent on the approval of the development agreement and the ensuing conditional use application for Lazy Lakes.

VII RECOMMENDED ACTION:

Planning Staff recommends **APPROVAL** of a front yard setback waiver from 25 to 20 feet and a parking requirement reduction of 20% with the following conditions attached to the Major Conditional Use Permit:

1. The proposed gate shall be relocated to the western access drive and the public boat ramp shall not be removed and shall remain open to the public to conform to the provisions of the Interim Development Ordinance and Section 9.5-66.
2. The Resolution shall hinge on the site meeting the density requirements which will either be accomplished by the adoption of the boat barn text amendment or the density on site being reduced from 118% to 100%.
3. Approval shall be obtained from the following agencies:
 - a) The western access drive, curb cuts and Stormwater plan require approval from the County Engineer; and
 - b) FDEH and KWRU for the sewer, and the conditions of the Fire Marshal; and
 - c) A letter of coordination from DCA supporting the claim that a "Clearance" or "Binding Letter" is not necessary.
4. Vacation rental use of the attached units shall be prohibited.
5. A revised site plan that displays the installation of bicycle racks, a 30 foot shoreline setback from the Mean High Water Line, a 25 foot front yard setback (or as is with 20 foot setback if the waiver is approved by the Planning Commission), removal of the gate and removal of the parking that eliminates the public boat ramp, removal of the sidewalks from the southwestern sideyard, required # of parking spaces (or as is (along with the removal of the spaces where the public ramp is to remain) if the 20% waiver is approved by the Planning Commission) and ten (10) handicap parking

spaces (11 if the parking waiver is not approved) shall be submitted and approved by the Planning Department prior to the issuance of a Resolution. Further, a revised landscaping plan with a Class "C" front yard shall be submitted and approved by the Biologist prior to the issuance of a Resolution.

6. The environmental standard requirements of open porches and ceiling fans to conserve energy; the use of solar panels for hot water heating; and heat pumps for air-conditioning will be used to the maximum extent practicable and shall be reviewed for compliance prior to the issuance of a building permit.